School, Church, and State Reconsidered

by

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Our country's most important contributions to civilization are free, universal, common public schools and the constitutional principle of separation of church and state. These two peculiarly American inventions form the backbone of our pluralistic, democratic society, insuring a degree of religious freedom, social harmony and mobility, and popular education found nowhere else.

In much of the rest of the world, state-subsidized private schools "compete," for lack of a more appropriate word, with public schools, which generally means state subsidization of the separation of children along religious and/or class lines (Britain, Northern Ireland, and the Netherlands provide good examples of this). In much of the world, public schools are used for sectarian religious or ideological indoctrination, prefer some religions over others, or are hostile to all religions. In few countries are citizens, especially children, free from government intrusion into their personal religious lives.

While we live in no utopia, we can be proud of our country's accomplishments in the areas of education and religious freedom. Yet there are well-organized special interests actively seeking to undermine public education and church-state separation by obtaining federal and/or state tax support for nonpublic schools and by moving public education away from the position of religious neutrality demanded by the pluralistic nature of our society and by the United States Constitution. Before we examine the specific threats, let us look briefly at how we got where we are.

The Historical Roots of Church/State Separation

Beginning in 1607 a diverse collection of people began settling the eastern shore of our continent. They came from England, Scotland, Ireland, France, Germany, Sweden, Holland, Africa, and elsewhere. Among them were Congregationalists, Episcopalians, Roman Catholics, Baptists, Methodists, Lutherans, Presbyterians, Jews, Quakers, Mennonites, and Dutch Reformed. Many came here seeking religious freedom, though most of the colonies they settled quickly set up established churches, practiced varying degrees of intolerance toward dissenters, and generally compelled people through taxes to support established churches.

By the time the colonies had taken up arms to sever the political connections with Great Britain, they were also ready, thanks to growing religious pluralism and the conviction that religious establishments were as intolerable as political tyranny, to cut the bonds between religion and government. Virginia provided the model generally followed by the other states. First the Episcopal Church was disestablished. Then Jefferson and Madison successfully campaigned for passage of the former's Bill for Establishing Religious Freedom, which barred religious compulsion and tax support for religious institutions. This sequence did not occur uniformly or immediately but, once started, the process of separating church and state ratcheted steadily forward to our own day.

The national Constitution of 1787 gave the federal government no authority to meddle with religion and prohibited religious tests for public office. Popular pressure led to the addition of the Bill of Rights to the Constitution during Washington's first term. Its first words, "Congress shall make no law

respecting an establishment of religion, or prohibiting the free exercise thereof," were construed by Jefferson, Madison, and other Founders, and later by the Supreme Court, to erect "a wall of separation between church and state."

The First Amendment and the rest of the Bill of Rights applied at first only to the federal government. It was originally assumed, incorrectly as it turned out, that the state constitutions would provide adequate protection for citizens' rights against state and local government. The Fourteenth Amendment, adopted after the Civil War, was intended to make the whole Bill of Rights applicable to state and local government. Unfortunately, the Supreme Court of the Reconstruction years declined to accept the Fourteenth's obvious intent, and it was not until fifty years later that the Court began to read one part after another of the Bill of Rights into the Fourteenth.

Though the history of the ever-fuller implementation of the church-state separation principle would require several large volumes, it is fair to generalize that the majority of Americans support the principle, while even many of those who would undermine it pay it lip service. Perhaps the clearest expression of the principle is found in a 1947 Supreme Court opinion concerning schools, from Everson v. Board of Education:

> The "establishment of religion" clause of the First Amendment means at least this: Neither a state nor the Federal government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect "a wall of separation between church and state."[1]

The history of the development of the American public school would require even more volumes, so we will have to settle here for a brief thumbnail sketch. During our colonial period, education was a private and religious affair in the southern and middle colonies. In New England education was a quasi-religious, quasi-public operation which gradually evolved into the community-run public school. As the nineteenth century wore on, public schools expanded steadily while parochial and private schools faded in importance. The people demanded public education, and parochial and private schools showed that they could not begin to keep up with the demand.

Running counter to this trend, of course, was the growth of a significant Roman Catholic parochial school system, in part in response to the rather Protestant cast of many public schools, which reflected the demography of the country, and a certain amount of anti-Catholic flavor in some public schools, the residue of religious and ethnic conflicts back in Europe. Catholic school enrollment peaked in the mid-1960s at 5.6 million students, about half of the Catholic school-age population, and then declined fairly rapidly by 40%. This decline, according to studies for President Nixon's Commission on School Finance at Notre Dame University and Boston College, was due far less to economic factors than to changes in Catholic attitudes and to the growing acceptability of public schools to Catholic parents, three fourths of whose children now attend public schools. Our public schools today enroll over forty million children, while nonpublic schools enroll about five million, slightly over 10% of total enrollment. Increasing religious pluralism and greater sensitivity to pluralism, augmented by federal and state court rulings, have moved the public schools from their nineteenth-century pan-Protestant posture to a fairly advanced degree of religious neutrality. By 1963 Supreme Court Justice William

J. Brennan could write, in his concurring opinion in Schempp:

> It is implicit in the history and character of American public education that the public schools serve a uniquely public function: the training of American citizens in an atmosphere free of parochial, divisive, or separatist influence of any sort--an atmosphere in which children may assimilate a heritage common to all American groups and religions. This is a heritage neither theistic nor atheistic, but simply civic and patriotic.[2]

Since 1965 nonpublic enrollment has declined relative to public enrollment, while the annual Gallup surveys of public attitudes toward education, published in the Kappan, show that 80% of public-school parents consistently rate public schools from satisfactory to excellent, discontent being confined mainly to minorities in financially troubled inner city schools. Though it can certainly stand improvement, when compared to private, industrial, and other public institutions, the public school is not in bad shape. There is no reason to think that public education has come to the end of the line, as many Radical Right and other critics have been noisily proclaiming for years.

Challenges Facing Public Education and Church-State Separation

Since the early nineteenth century there have been controversies over demands for tax aid for parochial and private schools, commonly referred to since the state battles of the late 1960s and early 1970s as "parochiaid." Those controversies have almost always been resolved in favor of the principle that public support should be confined to public schools. Most bills to provide tax aid to nonpublic schools, over 90% of whose enrollment attends sectarian schools of one sort or another, are defeated in the legislative process. Those that survive are nearly always tested in the courts. The only forms of such aid to survive judicial scrutiny have been some, but not all, forms of transportation services and textbook loans and some forms of auxiliary services, on the shaky theory that such aid is to individual children and not to institutions. Federal aid to pa-

rochial schools, which began in 1965, is only now being properly tested, in a federal court in Missouri, and it will be some time before the case gets to the Supreme Court.

Parochiaid in various forms has been consistently defeated in statewide referenda over the past sixteen years,[3] though margins of victory for public education would have been larger if defenders of church-state separation had been able to spend as much money campaigning as the parochiaid backers.

Among the forms of parochiaid which have been sought or actually enacted into law are transportation aid (often greatly exceeding what is provided for public schools), textbook loans, the "purchase of secular educational services" from parochial schools, parochial teacher salary supplements, payments for testing and record keeping, tuition reimbursements via tax credits or grants, vouchers, provision of diagnostic or remedial services, "lending" teachers and equipment to parochial schools, and "shared time" and "reverse shared time" arrangements.

Tax-paid transportation services for parochial schools were upheld by the Supreme Court in 1947 in Everson,[4] on the theory that the aid was to the child and not the school, but was ruled to violate state constitutional provisions by most of the state supreme courts which have dealt with the matter since then. About half of the states provide some form of transportation service for nonpublic schools. In several of these, such as New York and Pennsylvania, public school districts are required by law to transport students to nonpublic schools up to ten or fifteen miles outside the school district even if this means crossing state lines! This generally costs considerably more per student for nonpublic than for public students. Interdistrict parochial busing has been tested in a few lower courts, with mixed results, and the Supreme Court has so far avoided the issue.

Textbook loans for parochial students were upheld by the Supreme Court in 1968 in Allen[5] and subsequent rulings, but the Court's 1973 ruling in Norwood v. Harrison[6] held that textbook loans "are a form of tangible financial assistance benefitting the schools themselves" and may not go to schools "that practice racial or other invidious discrimination." Since nonpublic schools generally practice a variety of forms of discrimination in admissions and hiring not permitted in public schools, challenges to surviving forms of parochiaid might succeed under the Norwood ruling.

In 1971 the Supreme Court struck down Pennsylvania's "purchase of services" and Rhode Island's teacher salary supplement parochiaid plans in Lemon v. Kurtzman and Earley v. DiCenso.[7] In 1973 the Court ruled unconstitutional state laws which aided parochial schools with tuition reimbursement grants and tax credits, as well as with grants for building repair and maintenance, in PEARL v. Nyquist,[8] while knocking down grants for state-mandated examinations and record keeping in Levitt v. PEARL.[9] In 1975 the Court ruled against state plans to provide guidance, testing, and remedial services in parochial schools in Meek v. Pittenger,[10] but two years later, in Wolman v. Walter,[11] the Court that certain diagnostic tests could be performed in parochial schools while remedial services would have to be provided off the parochial school grounds, which often means in a mobile unit parked just outside the grounds. In 1972, 1973, and 1982, lower federal courts ruled unconstitutional the "lending" of teachers and equipment to parochial schools and the practice of "reversed shared time," which involves a public school district's operating part of a parochial school's program as a "public school annex." In its parochiaid rulings the Court has generally employed a three-part test which may be summarized thus: to be constitutional under the First Amendment an enactment may not have a primary purpose or

effect which advances or inhibits religion, or creates the potential for or actuality of excessive entanglement between religion and government.

In a significant recent decision (June 29, 1983), the U.S. Supreme Court ruled 5-4 in Mueller v. Allen to uphold the Minnesota law which provides state income tax deductions for tuition and other elementary and secondary school expenses. The ruling--written by Justice Rehnquist, joined by Justices Burger, White, Powell, and O'Connor--distinguished the Minnesota plan from tuition tax credit and similar parochiaid plans outlawed by the Supreme Court in the 1974 Nyquist and subsequent decisions by calling the state aid to sectarian schools in Mueller "attenuated" and by noting that public schools and public school families received some benefits under the plan, though to a rather insignificant degree. Although Mueller did not overturn Nyquist, it certainly eroded it and it suggested to Congress and state legislatures that new tuition tax credit bills incorporating the Rehnquist gimmicks in Mueller might be viewed favorably by the "Rehnquist Court" which would probably follow reelection of Ronald Reagan. This decision and previous efforts by those favoring public support for private education suggest that educators and supporters of public education would do well to place less faith in the courts and more emphasis on educational and political means to block the diversion of public funds to nonpublic schools.

Despite earlier adverse Supreme Court rulings, adverse referendum results, and adverse opinion polls, advocates of parochiaid have remained active and powerful, and since the 1980 election have a strong friend in the White House. Major efforts to get tuition tax credit (TTC)[12] and voucher[13] plan initiatives on the ballot in California by petition failed in the late 1970s, largely because many nonpublic schools and parents feared that unwelcome public controls would sooner or later follow the public dollars. Such initiative campaigns suc-

ceeded in Michigan and the District of Columbia in 1978 and 1981, but Michigan voters crushed the voucher plan in a 74% to 26% landslide, while D.C. voters obliterated the TTC plan 89% to 11%. In addition, not a single school district in the country approached by the Nixon and Ford administrations to participate in a voucher experiment agreed to do so, except for the Alum Rock District in California, which insisted on excluding sectarian schools from the test. At any rate, studies of the Alum Rock experiment showed that it produced little of value.

At the present time, both TTC and voucher plans are being promoted in Congress by the Reagan Administration and sectarian lobbies. The Administration's TTC plan is a slightly watered-down version of the earlier Packwood-Moynihan plan defeated in 1978. Over a three-year period it would phase in tax credits to reimburse 50% of tuition up to a maximum annual benefit per student of $300, with benefits scaled back to zero for families with adjusted incomes of $40,000 to $60,000, a sop to critics who point out that the plan would favor the affluent nonpublic parents over the less affluent public parents. The plan contains weak language against racial discrimination in admissions, but would permit other forms of discrimination in admissions and hiring (religious, social class, ability level, gender, etc.). The Administration's voucher plan is a less ambitious one than the full-scale plans proposed by Jencks, Friedman, Blum, Coons-Sugarman, etc. It would modify existing federal block grants for the education of disadvantaged children so that individual students could use vouchers worth about $500 to attend the local public school or out-of-district public school or nonpublic school of the parents' choice--if the school had space, if it would accept the student, if the student's family could afford the additional tuition above the value of the voucher.

Advocaters of the two parochiaid plans try to justify them as expanding parental choice and as providing more pluralism, diversity, and competition in education. However, all forms of education which may constitutionally be supported from public funds (which excludes segregated and/or sectarian education) may be provided in existing public school systems, if there is enough demand and enough money to cover the increased costs. As for pluralism and diversity in education, it should be obvious that the individual student will find more pluralism and diversity in a public school than in most sectarian or ideology-oriented nonpublic schools with selective admissions and hiring policies. And competition between public and nonpublic schools means little if the schools play by radically different rules: public schools are open to all and are required to be religiously neutral, while nonpublic schools commonly provide pervasively sectarian teaching and practice forms of selectivity not permitted in public schools.

The Case Against Tuition Tax Credits and Voucher Plans

Both federal tuition tax credits and voucher plans would fail the tests of constitutionality under the First Amendment which the Supreme Court has consistently applied. Sure, some will say, but we needn't worry because the Supreme Court, like the deus ex machina of ancient Greek drama, will strike down any parochiaid law Congress might pass. We can hope that that will always be true, but the fact is that the strongest defenders of church-state separation and public education on the Court are not young and could be replaced by justices who, like Justice Rehnquist, are hostile or indifferent.

Let us note, in passing, that the parochiaid lobby would not stop with passage of a 50%, $300 maximum benefit TTC plan. If such a measure should pass,

and somehow survive a Supreme Court test (perhaps after a couple of appointments by a president unfriendly to the First Amendment), there would ensue endless pressure of Congress and state legislatures to increase the percentage and amount of tuition reimbursed until nonpublic schools achieve parity of public support with public schools, while of course being able to augment the public support with additional tuition. The political waters would be poisoned for generations by religious controversy. Parity of public support is clearly the goal of the parochiaiders, as events both in this country and in Canada, Australia, and Western Europe bear out.

Both TTC and voucher plans would violate every citizen's right to support only the religious institutions of his or her free choice.

Both would weaken public education by subsidizing competitors which enjoy the advantages of selectivity, by diverting scarce financial resources away from generally needy public schools, and by reducing the politically influential constituency of public education.

TTCs (and most types of full voucher plans) would subsidize, sanction, and encourage the separation of children by religion, socio-economic class, gender, academic-ability level, and in other ways. About 90% of the students in nonpublic schools are in institutions approaching total religious homogeneity. After all, most nonpublic schools are operated for religious purposes and tend to have religiously homogeneous faculties. Catholic schools enroll few non-Catholics; Lutheran schools, few non-Lutherans; Jewish schools, few if any non-Jews; fundamentalist schools, few non-fundamentalists.

Both TTC and most voucher plans would favor the affluent over the less affluent. According to the most recent Census Bureau data, nonpublic school parents' incomes average $22,600, which is 37% higher than the public school

parents' average income of $16,500. No TTC plan ever proposed would prohibit tax-aided nonpublic schools from raising tuitions to take maximum advantage of the public funds available plus whatever the parents might be willing to add.

Both plans would exacerbate racial isolation. Public schools are 16.1% black in enrollment, while nonpublic schools are only 7.5% black. In addition, nonpublic schools, especially on the secondary level, tend to skim off the college-bound children, while the comprehensive public schools must accept all students. Nonpublic schools need not accept or retain handicapped, slow, or discipline-problem students, and rarely offer vocational education. TTC and voucher plans, then, would tend to divide the school population laterally by socio-economic class and vertically by religion, ideology, gender, ethnicity, ability level, parental expectations, behavior, and in other ways. In the long run, our society would become feudalized and ghettoized.

Both TTC and voucher plans would weaken public control over public spending. Public schools are controlled, for the most part, by elected boards of local parents, citizens, and taxpayers. Nonpublic schools supported or aided by TTCs or vouchers would not be answerable to the taxpaying public. (If they have the political clout to get the aid, they have the clout to resist unwanted controls.) That would certainly be "taxation without representation," as tyrannous now as in 1775.

Both plans would tend to make the religious bodies accepting the aid for their schools dangerously dependent upon government, while increasing sectarian special interest efforts to influence politics and legislation.

Both plans would create administrative nightmares, the details of which can be left to the imaginations of professional educators.

Both plans would reduce academic freedom, now fairly well protected in pub-

lic schools. They would shift students and teachers to nonpublic schools where academic freedom would be subordinate to sectarian and ideological priorities. More and more of the teaching profession would pass to ecclesiastical control; less and less would enjoy the advantages of pluralistic common schooling.

Finally, passage of TTCs or vouchers would be a great victory for the Radical Right, Moral Majority, and sectarian groups which have long been hostile to the very idea of pluralistic, religiously neutral, democratic, common, public schooling. TTCs and vouchers are what might be called external threats to public education and church-state separation. The internal threats are those which would compromise the integrity of public education by shifting it from religious and ideological neutrality in the direction of serving the aims of sectarian special interests.

The Record on Religion in the Public Schools

We live in a pluralistic, democratic nation. Common sense--or perhaps what Bertrand Russell called "uncommon sense"--would seem to require that the common, public schools be religiously neutral. Under the federal and state constitutions we do not delegate to government any power to decide religious questions or to give preference to some religions over others. Since their founding, our public schools have been driven by that logic and the pressure of pluralism itself to a posture of respectful neutrality, though with 16,000 school districts and 2.5 million teachers there are bound to be some deviations from the ideal. Then, too, the Supreme Court has been called on repeatedly in recent years to settle disputes over the role of religion in public education. Let us briefly review the major rulings.

In 1948 in McCollum v. Board of Education[14] the Supreme Court ruled that

"released time" religious instruction in public schools, even though voluntary, violated the First Amendment. Four years later, in Zorach v. Clausen,[15] the Court held that such instruction could be given off the public school grounds as long as it was purely voluntary. Government-mandated school prayer or Bible reading, or government-sponsored devotions, were ruled unconstitutional in 1962 and 1963 in Engel v. Vitale[16] and Abington School District v. Schempp.[17] The Court has left standing recent lower court rulings that student-initiated prayer meetings in public schools were unconstitutional because they created a potential for excessive government entanglement with religion. State laws to designate brief periods of silence "for prayer or meditation" have recently been held unconstitutional by federal district courts, but it is too early to tell how these rulings will fare on appeal. Distribution of Gideon Bibles in schools has been held unconstitutional, though apparently schools could allow religious groups to leave literature to be picked up by students from a table set aside for that purpose. Required display of the Ten Commandments in public classrooms was ruled unconstitutional by the Supreme Court in 1980 in Stone v. Graham.[18]

Arkansas's attempt to bar the teaching of evolution in public schools and universities was ruled unconstitutional in 1968 in Epperson v. Arkansas.[19] The Supreme Court held that the law's purpose was religious and not secular. A 1981 Arkansas law to require "equal time" for "scientific creationism" whenever evolution is taught was thrown out by a federal district court in early 1982. No appeal was made. The district court found that creationism is a religious doctrine, not a testable scientific theory, and therefore may not be taught in public school science classes.

Problems involving religious holiday observances in schools and the intrusion of missionary activities remain to be resolved definitively, as do other

peripheral problems, but the trend of school practice and court rulings is clear: public schools in our pluralistic society must be as religiously neutral as possible.[20] The schools are not barred from dealing with religion, of course, but only from advancing particular religious positions over others. As the Supreme Court has acknowledged, the schools may offer objective, neutral instruction about religion, as distinguished from the teaching of religion. There is, however, little demand for such objective instruction and very few states have made any effort to see that what instruction is offered is suitably objective and handled by properly trained and certified teachers.

Nor have students been denied the right to pray or read the Bible in school, as Radical Right critics have noisily insisted. The courts have barred only government-sponsored or mandated devotions, leaving all students free to engage in individual personal prayer pretty much whenever they choose. And, of course, the common schools may inculcate and reinforce universal ethical and citizenship values.

The annual Gallup surveys of public attitudes toward public education register no parental dissatisfaction with the religious neutrality of the schools. Yet powerful special-interest groups are working hard to undo or get around the wise and proper court rulings mentioned above, to place the schools at the service of certain sectarian interests.

The most serious threat is that of a proposed constitutional amendment to allow local authorities (state? county? city? school district?) to require or sponsor group prayers in school, with dissenters allowed to brave peer and school pressure by not participating. Such proposed amendments have always been defeated in Congress, though not without protracted and difficult struggles, but the Reagan Administration is putting its weight behind the new amendment.

Should Congress pass it, its ratification by state legislatures would be hard to stop. Although most mainstream religious bodies oppose school prayer amendments, there is strong fundamentalist and Radical Right support for an amendment, which is aided by a common misperception that students have been barred from praying.

If passed, a prayer amendment would create tensions and divisions in most school districts over the nature of the school-sponsored group prayer and over who would lead them. In the last analysis, what the school-prayer advocates are saying is that American families and religious bodies are incapable of managing the religious lives of their children without the help of the state, and that a watered-down, lowest-common-denominator sort of school prayer has more value than individual personal prayer.

Slightly less radical than the Administration's proposed constitutional amendment is Senator Jesse Helms' proposal, narrowly defeated in the Senate in 1982, to accomplish the same goal by mere legislation denying federal courts jurisdiction over school-prayer controversies, in effect slamming the federal courthouse door in the face of aggrieved parents and children. The Helms ploy is of dubious constitutionality, but should not be dismissed lightly. A related threat is Senator John East's bill to deny the federal courts jurisdiction over any claim that state or local government has violated any citizen's rights under the first eight amendments, a bill also of dubious constitutionality but which, if upheld by the Supreme Court, would virtually repeal the Fourteenth Amendment.

A threat to public school neutrality which has apparently never been litigated is the operation of religious missionaries in the schools. Such organizations as Young Life and Campus Crusade have engaged extensively in this practice, which is surely at least as unconstitutional as the distribution of Gideon Bibles or government-mandated prayers.

While no state legislature is likely to try again to require equal time in science classes for fundamentalist "creationism," the practice is being required or tolerated by a number of local school boards and we have not heard the last of it.

Censorship of textbooks and school library books for essentially religious reasons also jeopardizes public school religious neutrality, and is part of a very complex problem area involving book selection and censorship. The censorship and creationism problems are combined in the campaign, largely focused in Texas, to weaken references to evolution in textbooks. Unfortunately, some textbook publishers put profits before principles and allow science textbooks to be bowdlerized by the creationists.

Before concluding, let me respond to the charge, made frequently by Radical Right leaders such as Tim LaHaye and Pat Robertson, that our schools are teaching or promoting the "religion of secular humanism." If by "secular humanism" is meant that set of views by which "humanists" are readily distinguished from conventional representatives of Christianity and Judaism, the charge is nonsense. The schools are forbidden by the Constitution and their very pluralism from teaching or promoting any religion or any form of hostility to religion. Nor would our elected school boards be likely to tolerate such deviations from neutrality. Those who level the "humanism in the schools" charge should be challenged to produce hard evidence, as plaintiffs did several years ago when Transcendental Meditation began to be taught in five New Jersey high schools. But if by "secular humanism" is meant the whole constellation of ideas and civic and moral values shared by Protestants, Catholics, Jews, humanists, and others and legitimately taught or reinforced in the schools, then the charge is simply meaningless. In any event, the charge is but a propaganda ploy used by those

seeking tax aid for nonpublic schools and/or the takeover of public schools for sectarian ends.

Conclusion

If these external and internal threats to public education and church-state separation are not contained, then the very backbone of our democracy may be irreparably damaged. All citizens, but especially professional educators, should be working to halt these threats. Those engaged in preparing young people for careers in education must sensitize them to the problems discussed above. If old and new educators are not part of the solution, then they are part of the problem.

Education organizations are already involved in influencing public policy on these issues, and many of these groups are members of the National Coalition for Public Education and/or the National Coalition for Public Education and Religious Liberty. But the level of activity by educational organizations and by individual educators can and must be increased. The organizations and individual educators need to work together and with religious, civil liberties, civil rights, and other groups on the national, state, and local levels to defend public education and church-state separation.

Educators must work to solve the problems of public education, with which we are all familiar, or those problems will drive more people into the ranks of the parochiaiders. Supporters of public education and religious liberty have been winning nearly all of the important battles, though often by uncomfortably narrow margins. As the fight gets tougher, we will just have to work harder.

FOOTNOTES

[1]330 U.S. 1.

[2]374 U.S. 203.

[3]Nebraska, 1966, 57%-43%; New York, 1967, 72.5%-27.5%; Michigan, 1970, 57%-43%; Nebraska, 1970, 57%-43%; Oregon, 1972, 61%-39%; Idaho, 1972, 57%-43%; Maryland, 1972, 55%-45%; Maryland, 1974, 56.5%-43.5%; Washington State, 1975, 60.5%-39.5%; Missouri, 1976, 60%-40%; Alaska, 1976, 56.3%- 43.7%; Michigan, 1978, 74%-26%; District of Columbia, 1981, 89%-11%; Massachusetts, 1982, 63%-37%; California, 1982, 62%-38%.

[4]330 U.S. 1.

[5]392 U.S. 236.

[6]93 S.Ct. 2804.

[7]403 U.S. 602.

[8]410 U.S. 907.

[9]413 U.S. 472.

[10]413 U.S. 349.

[11]433 U.S. 229.

[12]Under a TTC plan, nonpublic school tuition would be reimbursed by the federal or state government through income tax credits. A typical TTC plan was the Packwood-Moynihan bill defeated in Congress in 1978. It would have reimbursed 50% of tuition up to a maximum annual benefit per student of $500. A more ambitious plan was the one defeated in the District of Columbia in 1981. It would have reimbursed 100% of tuition up to $1,200 for each taxpaying parent, which would have allowed a single child with enough taxpaying relatives to amass enough credits to attend a private school in Switzerland and commute by air.

[13]A bewildering array of voucher plans has been proposed by Milton Friedman, Rev. Virgil Blum, Christopher Jencks, John Coons and Stephen Sugarman, and others. What they have in common is government payment of all or part of the cost of public, private, or parochial schooling through vouchers issued to children and their parents and redeemable by the school which accepts the child.

[14]333 U.S. 203.

[15]343 U.S. 306.

[16]370 U.S. 421.

[17]374 U.S. 203.

[18]101 S.Ct. 192.

[19]393 U.S. 97.

[20]A comprehensive summary of court rulings in this area may be found in Religious Activities in the Public Schools and the First Amendment, by David M. Ackerman, Congressional Research Service, The Library of Congress.